

1 BEFORE THE BOARD OF PERSONNEL APPEALS

2
3 MISSOULA ELEMENTARY UNIT
4 OF THE MONTANA EDUCATION
5 ASSOCIATION,

6 Complainant,

7 -vs-

8 BOARD OF TRUSTEES OF SCHOOL
9 DISTRICT NO. 1, MISSOULA,
10 MONTANA,

11 Defendant.

ULP-12-1975

FINDINGS OF FACT,
CONCLUSION OF LAW,
AND ORDER AS
RECOMMENDED TO THE
BOARD OF PERSONNEL
APPEALS

12 I Introduction

13 The Missoula Elementary Unit of the Montana Education
14 Association (hereinafter referred to as MEA) filed an unfair
15 labor practice charge with the Board of Personnel Appeals
16 alleging that the Board of Trustees of School District No. 1,
17 Missoula, Montana (hereinafter referred to as Trustees) had
18 violated section 59-1605(1)(e), R.C.M. 1947. The Trustees
19 have responded to MEA's allegation and deny having committed
20 an unfair labor practice. A hearing on MEA's charge was held
21 in Missoula, Montana on September 30, 1975 before me. Emilio
22 Loring, of the law firm of Hilley and Loring, Great Falls,
23 Montana represented MEA. Candace C. Fetcher and Dennis E.
24 Lind, deputy county attorneys for Missoula County, represented
25 the Trustees. Both parties filed briefs after the hearing.

26 II Findings of Fact

27 1. MEA alleges that the Trustees failed to bargain in
28 good faith by unilaterally changing the working conditions of
29 employees whom MEA represents. Specifically, MEA charges
30 that the Trustees adopted a school calendar which contained
31 one day more than the calendar for the school year 1974-75
32 (as set out in a collective bargaining agreement between the

1 Trustees and MEA) although no change in the school calendar
2 was proposed by either the MEA or the Trustees during contract
3 negotiations.

4 Relevant evidence shows that this calendar was adopted by
5 the Trustees on March 11, 1975 and announced to staff through
6 Administrative Council Meeting minutes on March 12, 1975.

7 2. I note that section 59-1605 (1) (e) is a section of an
8 act popularly known as the Montana Public Employee's Collective
9 Bargaining Act. This Act was not applicable to teacher ne-
10 gotiations at the time the alleged offense occurred in March
11 of 1975. Rather, the Professional Negotiations Act for Teachers
12 (Title 75, Chapter 61, R.C.M. 1947) was applicable.¹


13 14 III Conclusion of Law

15 The Board of Personnel Appeals lacks the necessary juris-
16 diction to adjudicate MEA's unfair labor practice charge be-
17 cause the conduct alleged by MEA to constitute an unfair labor
18 practice occurred before the Montana Public Employee's Collective
19 Bargaining Act applied to teachers.

20 21 IV Recommended Order

22 Accordingly, MEA's unfair labor practice charge is hereby
23 dismissed.

24 Dated this 2nd day of January, 1976.

25
26 
27 Peter O. Maltese
Hearing Examiner

28
29 ¹ I note that the Professional Negotiations Act for Teachers
30 enumerated certain employer unfair practices and provided for pro-
31 cedures to restrain those practices in district court. This Act
32 was repealed effective July 1, 1975 at which time the Montana Public
Employee's Collective Bargaining Act with its enumerated unfair
labor practices and procedures was made applicable to teachers.